

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE

AT NASHVILLE

JULY 1997 SESSION

**FILED**

September 2, 1997

Cecil Crowson, Jr.  
Appellate Court Clerk

STATE OF TENNESSEE,	)	C.C.A. NO. 01C01-9608-CC-00373
	)	
Appellant,	)	
	)	
	)	WILLIAMSON COUNTY
VS.	)	
	)	HON. DONALD P. HARRIS
JODY L. HAGER,	)	JUDGE
	)	
Appellee.	)	(Sentencing)

**ORDER**

Appellant Jody L. Hager pleaded guilty in the Williamson Circuit Court to theft of property valued under five hundred dollars and failure to appear. He received consecutive sentences of eleven months and twenty nine days for each offense. The trial court suspended the sentence and ordered immediate probation. In this direct appeal, the State presents the following issue for review: whether the trial court erred in ordering immediate probation.

After review of the record, we affirm the judgment of the trial court pursuant to Court of Criminal Appeals Rule 20.

The law in this area is well settled. In misdemeanor sentencing, the trial court has the authority to place the defendant on immediate probation. Tenn. Code Ann. § 40-35-302(e); see also State v. Boyd, 925 S.W.2d 237, 244 (Tenn.

Crim. App. 1995). Moreover, the granting of such a suspended sentence rests within the sound discretion of the trial court. State v. Leach, 914 S.W.2d 104, 106 (Tenn. Crim. App. 1995); State v. Mitchell, 810 S.W.2d 733, 735 (Tenn. Crim. App. 1991).

While there is evidence in the record which would justify a denial of immediate probation, there is also ample evidence supporting the trial court's decision. At sentencing, Appellant testified that he is no longer addicted to the drugs from which his criminal activity stemmed, that he plays an active role in the life of his eleven-year-old son and in his local church and youth ministry, and that he is gainfully employed both by his father's house building business and by a car dealership, enabling him to make regular child support payments. Appellant further testified that he is remorseful for his criminal conduct and that he will comply with all conditions of his probation. The record also demonstrates that, prior to his arrest for these offenses, Appellant confessed his crimes to the victim and gave a voluntary statement to law enforcement authorities. Mindful of the foregoing, we find that the trial court did not abuse its discretion in ordering immediate probation.

Accordingly, we affirm the trial court's judgment pursuant to Court of Criminal Appeals Rule 20.

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JERRY L. SMITH, JUDGE



CONCUR:

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JOHN H. PEAY, JUDGE

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WILLIAM M. BARKER